

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
JEFFREY JAKUBIAK, :
Plaintiff, :
: 20 Civ. 10842
-against- :
:
QUANTUMSCAPE CORPORATION, :
Defendant. :
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:
BJI FINANCIAL GROUP INC., et al., :
Plaintiffs, :
: 21 Civ. 8755
-against- :
:
QUANTUMSCAPE CORPORATION, :
Defendant. :
-----X
:
MICHAEL ASSANTE, et al., :
Plaintiffs, : 21 Civ. 9565
:
-against- : ORDER
:
QUANTUMSCAPE CORPORATION, :
Defendant. :
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, the above-captioned cases were consolidated on December 13, 2021. In November 2021, Plaintiff Jakubiak's negligent misrepresentation claim was dismissed from *Jakubiak v. QuantumScape Corporation*, No. 20 Civ. 10842 (the "Jakubiak Action"). The plaintiffs in (i) *BJI Financial Group Inc. et al. v. QuantumScape Corporation*, No. 21 Civ. 8755 (the "BJI Action"), and (ii) *Michael Assante et al. v. QuantumScape Corporation*, No. 21 Civ. 9565 (the "Assante Action"), brought their own negligent misrepresentation claims;

WHEREAS, on December 28, 2021, Defendant QuantumScape Corporation moved to

dismiss the negligent misrepresentation counts in the Amended Complaint filed in the BJI Action, Dkt. No. 16, and (ii) the Complaint filed in the Assante Action, Dkt. No. 3;

WHEREAS, QuantumScape incorporated its briefing and arguments previously submitted on the negligent misrepresentation count in the Jakubiak Action;

WHEREAS, on January 7, 2022, Plaintiffs BJI Financial Group Inc., Brian Walsh, Michael Assante, John Wilschke, and Headwaters Holdings (“Plaintiffs”) filed a response in opposition to QuantumScape’s motion to dismiss. Plaintiffs incorporated the briefing and arguments submitted by the plaintiff in the Jakubiak Action;

WHEREAS, on January 12, 2022, QuantumScape filed a response in support of its motion to dismiss;

WHEREAS, the only difference between the Jakubiak Action and the BJI and Assante Actions is the residency of the plaintiffs in each action. Plaintiff Jakubiak was a resident of Florida and took all actions related to the dispute in Florida, and Plaintiffs are residents of either New Jersey or California and took all actions related to this dispute in those states;

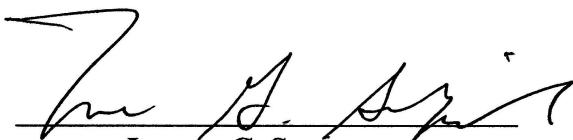
WHEREAS, for the same reason that New York law applies to the negligent misrepresentation claim in the Jakubiak Action, it applies to the negligent misrepresentation claim in the BJI and Assante Actions. *See Jakubiak v. QuantumScape Corp.*, No. 20 Civ. 10842, 2021 WL 5331722, at *5-6 (S.D.N.Y. Nov. 16, 2021) (holding that New York law governs the negligent misrepresentation claim because New York has the greatest interest in the litigation);

WHEREAS, as in the Jakubiak Action, the Plaintiffs do not allege a special relationship between themselves and QuantumScape, as required under New York law for negligent misrepresentation claims. *See Jakubiak*, 2021 WL 5331722, at *6 (discussing the special relationship requirement of New York law negligent misrepresentation claims). It is hereby

ORDERED that QuantumScape's motion is GRANTED. Plaintiffs' negligent misrepresentation claims are DISMISSED in the BJI and Assante Actions. It is further **ORDERED** that Plaintiff Jakubiak and Plaintiffs shall file a consolidated complaint by **January 21, 2022.**

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 54.

Dated: January 14, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE